

Chapter 5 – Probate

Probate cases are those involving wills, estates, trusts, guardianships, adoptions, commitment, and similar matters. Circuit courts have jurisdiction over probate matters. When a probate case is filed, Supreme Court Administrative Order Number 8 requires the attachment of a Probate Cover Sheet and the designation of the case from the following list of case types.

Probate Case Type List

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|--------------------------------|--------------------------|
| Adoption – Probate | Alcoholic Commitment |
| Ancillary Administration | Civil Commitment |
| Guardianship of an Adult | Narcotic Commitment |
| Guardianship of a Juvenile | Adult Protective Custody |
| Conservatorship | Small Estate |
| Trust Administration | Probate – Other |
| Decedent Estate Administration | |

Probate Case Type Definitions

- Adoption – Probate: Cases involving a request for the establishment of a new, permanent relationship of parent and child between persons not so biologically related.
- Ancillary Administration: The administration of a decedent's estate in a state other than the one in which they lived, for the purpose of disposing of property they owned there.
- Guardianship of an Adult: Cases involving the establishment of, or a controversy over, the relationship existing between a person (guardian) and an adult (ward). Note: The guardian is lawfully invested with the power and charged with the duty of caring for and managing the affairs of an adult (ward) who is considered by the court to be incapable of doing so himself/herself.
- Guardianship of a Juvenile: Cases filed in the probate division involving the establishment of, or a controversy over, the relationship existing between a person (guardian) and a juvenile (ward). Note: The guardian is lawfully invested with the power and charged with the duty of caring for and managing the affairs of the juvenile (ward) who is considered by the court to be incapable of doing so himself/herself.

Conservatorship:	Cases involving the establishment of, or a controversy over, the relation existing between a person (conservator) and another person (ward).
Trust Administration:	Cases involving the establishment of, or a controversy over, the legal possession of real or personal property held by one person (trustee) for the benefit of another.
Decedent Estate Administration:	Cases involving: 1) the determination of whether a will is a valid instrument; 2) the statutory method of establishing its proper execution; and 3) the determination, in the absence of a will, of the disposition of the decedent's estate. It also includes court actions providing for estate administration, appointment of executors, inheritances, etc.
Alcoholic Commitment:	A petition filed with the court regarding a person considered to be a danger to himself/herself or others due to his/her use of alcoholic substances.
Civil Commitment:	A petition filed with the court regarding a person considered to be a danger to himself/herself or others.
Narcotic Commitment:	A petition filed with the court regarding a person considered to be a danger to himself/herself or others due to his/her use of narcotics.
Adult Protective Custody:	Protection of an individual by the state in order to protect the individual from being harmed either by himself/herself or some other person.
Small Estate:	Settlement of an uncomplicated estate with value of the property less than \$100,000 using A.C.A. § 28-41-101.
Probate - Other:	Probate cases of unknown specificity, when probate cases are not attributable to one of the other previously defined probate case types.

Unit of Count and Caseload Statistics

The statistical reporting of probate cases is based upon the number of cases filed, not the number of plaintiffs, defendants, or claims. A probate case with multiple parties or multiple causes of action is counted as one case.

A probate case is considered filed when the complaint, petition, or request is received by the clerk and a case number is assigned.

The following are considered new case filings:

- Cases transferred to a court from another state or another judicial district within the state; or
- An adoption petition filed as part of a juvenile dependency-neglect (DN) case. Note that although the adoption petition is filed within the DN case, the adoption file is transferred to probate and is assigned a new probate case number once the adoption is finalized in juvenile court.

The following are NOT considered new case filings

- Cases transferred from another division within the same judicial district.
- Cases involving review of a previous case, as is typical of guardianships.

Basic statistical reporting of probate cases is designed to include:

- the number of cases that are pending at the start of a reporting period;
- the number of incoming cases that have been added during the reporting period;
- the number of outgoing cases that were removed during the reporting period;
- the number of cases pending at the end of the reporting period; and
- the number of cases closed but Set for Review.

In addition, basic statistical reporting also includes the number of cases with pro se litigants and the number of cases requiring an interpreter. Cases entered in error are not included in statistical reporting.

The caseload is also divided between those cases that are active and those that are inactive. When a case is referred by the court to any form of alternative dispute resolution, the case remains on active status.

The designation of a case as “inactive” is an exceptional event that is unrelated to whether or not recent action has occurred in the case; rather, it is a designation that is applied when the court is prohibited from taking action on the case due to events or circumstances that are outside of the court’s control. A probate case may be inactive if a stay is issued due to military duty, for example. It would then be reactivated when further court action was possible.

Special notes for probate cases:

- Guardianships arising from a juvenile dependency-neglect case will normally be filed as a juvenile guardianship. If the case is an adult guardianship or a private juvenile guardianship, it is filed as a probate case.
- Decedent Estate cases may remain open for a long period of time.
- If a party is a pro se litigant at any point in the case, enter pro se as the party status even if the party has counsel at some point in the case.

- If any party to the case will require interpreter services, enter the language that person needs in their demographic information.

Manner of Filing

In each probate case the manner by which the case arrives at the court for filing must be entered. The case may be an original filing, a reopening of a case, or a transfer from another circuit or state.

Manner of Disposition

The manner of disposition is the manner whereby a case is closed or becomes inactive. A case is disposed when it has been closed by a judgment, a decree or order of dismissal, or a transfer to another jurisdiction. This officially occurs when the order is entered in the clerk's office or when the order is accepted by the electronic filing system. If an order is filed in open court, it must still be filed with the clerk's office on the next business day.

In probate cases, the following special notes apply:

- A case for which a final decree, order, or judgment is entered is considered disposed even if the case is carried as active for regularly scheduled reviews.
- In a guardianship case where annual reports are required to the court, the case is considered statistically closed but "Set for Review". The status will remain "Set for Review" until the guardianship is terminated.
- If two or more probate cases are consolidated after filing to be processed or tried as one case, each of the cases except for the one into which the cases were consolidated should be reported as disposed at the time of consolidation. When the consolidated case is decided, the disposition should be reported under the appropriate trial type and manner of disposition category.
- Small estate cases are immediately closed upon filing the affidavit and cover sheet. The trial type is non-trial and the manner of disposition is judgment.

In some cases multiple trial types may occur. Choose the trial type that required the most judicial involvement.

Trial type

Bench Trial:

A trial in which a judge hears the case. A bench trial should be noted as the disposition manner in any case in which a witness is sworn or evidence is introduced in a proceeding, regardless of whether a judgment is reached.

Non Trial: Any type of disposition that does not involve a bench trial.

Manners of Disposition

Judgment: A case in which an adjudication was reached on at least one of the issues involved.

Dismissal: A case that is closed without adjudicating the claims.

Consolidated: A case that is combined with another case.

Transferred: A case that is transferred to another jurisdiction within the state court system.

Removed to bankruptcy court: A case made inactive because of a filing in federal bankruptcy court and no further state court action is possible. These cases appear on the “inactive” caseload.

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